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Special Political and Decolonization Committee (Fourth Committee)

Summary record of the 4th meeting
Held at Headquarters, New York, on Wednesday, 2 October 2002 at 3 p.m.

Chairman:	Mr. Maitland	(South Africa)
later:	Ms. Price (Vice-Chairman)	(Canada)
later:	Mr. Maitland (Chairman)	(South Africa)

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The meeting was called to order at 3.15 p.m.

Agenda item 19: Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples (*continued*) (A/C.4/57/3 and Add. 1-16)

Hearing of representatives of Non-Self-Governing Territories and of petitioners

Questions of American Samoa, Anguilla, Bermuda, the British Virgin Islands, the Cayman Islands, Guam, Montserrat, Pitcairn, Saint Helena, the Turks and Caicos Islands and the United States Virgin Islands

1. *At the invitation of the Chairman, Mr. Corbin (Government of the United States Virgin Islands) took a place at the petitioners' table.*

2. **Mr. Corbin** (Government of the United States Virgin Islands), referring to the decolonization process as it related to the small island Non-Self-Governing Territories, said that even though the Committee's unfinished agenda had often been subordinated to other more pressing international concerns, the situation still required attention. Most of the remaining Non-Self-Governing Territories were small, but their aspirations and right to self-determination were no less important than those of Territories which had already determined their political future. From the general debate over the last few days, it was reassuring to learn that Member States were increasingly aware of the responsibility of the United Nations to fulfil its mandate in relation to small Territories, while remaining consistent with the political options of equality as defined in General Assembly resolution 1541 (XV). In that respect, his Government wished to associate itself with the position of the Caribbean Community (CARICOM) as outlined by the representative of Antigua and Barbuda, speaking on behalf of the members of CARICOM, the previous day.

3. The Special Committee on decolonization should be commended for the successful completion of its work for the year, which was reflected in the recent mission to Tokelau. The report on the Tokelau mission recommended that a study should be prepared on the nature and implications of the three options for self-determination. In that respect, it should be recalled that a call for a comprehensive study on the implications of the political options for all the remaining Territories was contained in the plan of action of the first International Decade for the Eradication of Colonialism and, although the Second Decade was already under way, the study was still pending. The Committee might wish to consider how that essential task could be undertaken, since it would heighten the awareness of the peoples of the Territories about the implications of the political options available to them and advance towards implementation of the General Assembly mandate.

4. Regional seminars also provided an important venue for discussion. The knowledge derived from them helped to bridge the information gap on relevant developments in the Territories, which were seldom discussed during the meetings of the Fourth Committee, since the representatives of most of them did not attend. Consequently, seminar recommendations could be particularly useful in formulating resolutions on decolonization.

5. Lastly, the General Assembly and the Economic and Social Council had adopted a series of resolutions on the direct participation of Territories in the work of the United Nations, linking it to promoting the progress of the peoples of those territories towards political equality. Several United Nations regional commissions and specialized agencies were now admitting territories as observers or associate members and the United States Virgin Islands also hoped to be granted observer status in the Caribbean Community shortly.

6. *Mr. Corbin withdrew.*

Question of Western Sahara

7. *At the invitation of the Chairman, Mr. Mayol i Raynal (European Parliament) took a place at the petitioners' table.*

8. **Mr. Mayol i Raynal** (European Parliament), speaking as a member of the European Parliament Intergroup "Peace for the Saharawi People", reviewed events in Western Sahara over the past 27 years and said that in 1999, when the United Nations Mission for the Referendum in Western Sahara (MINURSO) had completed the work of preparing the referendum and established a list of Saharan voters, it had appeared that nothing more stood in the way of the Saharan people's exercise of their right to self-determination. However, Morocco had filed more than 130,000 appeals in order to delay the process and then the draft framework agreement presented by the Secretary-General and his

Personal Envoy, Mr. James A. Baker III, effectively waived the right to self-determination by proposing a five-year autonomous regime, followed by a referendum where all those who had been resident in the territory for at least one year could vote. Fortunately, that formula had subsequently been set aside and Security Council resolution 1429 (2002) reaffirmed that any solution should propose an approach that provided for self-determination.

9. It was evident that Morocco's strategy was to gain time in order to settle more Moroccans in Western Sahara. Also, in October 2001, Morocco had agreed to allow United States and French petroleum companies to carry out exploration activities in Western Sahara's territorial waters, under the pretext that exploration was licit, while exploitation was not; the same was true of the Bou-Craa phosphate mines and certain fishing fleets had been allowed to fish in the territorial waters.

10. For the Saharans to be able to choose their future freely, the United Nations must exercise its authority, including resorting to force to enforce the principles of its Charter. It was a matter of the political will that had triumphed recently by allowing the liberation of Timor-Leste. It was to be hoped that before the end of the Second International Decade for the Eradication of Colonialism, the "Sahrawi Arab Democratic Republic" would be a full Member State of the United Nations.

11. *Mr. Mayol i Raynal withdrew.*

12. *At the invitation of the Chairman, Mr. Alonso Rodriguez (Liga Española Pro-Derechos Humanos) took a place at the petitioners' table.*

13. **Mr. Alonso Rodriguez** (Liga Española Pro-Derechos Humanos) said that there were currently more than 155,000 Saharan refugees in the Tindouf camps in Algeria and they depended almost entirely on food aid from the World Food Programme (WFP). Almost four million dollars in food aid would be necessary between now and the beginning of 2003; without it, there would be severe consequences for their health, particularly that of children under the age of five, pregnant women and nursing mothers. Consequently, he called on western Governments to make the necessary contributions to WFP and the Office of the United Nations High Commissioner for Refugees (UNHCR) in order to help the Saharan refugees.

14. Many experts considered that Morocco's military activities amounted to the genocide of the Saharan people. There was an excessive police and military presence, which had resulted in many different human rights violations. The United Nations should exercise its jurisdiction and respond to Morocco's continued obstructionist approach to the peace process. The only fair and legitimate solution to the conflict was a transparent referendum on self-determination under the auspices of the United Nations; any other political solution would only lead to renewed conflict. The Government of Spain had an unpaid debt to the Saharan people, and as a new member of the Security Council, it could play an important role in the diplomatic and political solution of the problem. His organization had formally requested the Government of Spain to grant automatic dual nationality to the Saharan people. Six Nobel Prize winners had recently stated that the United Nations should not allow conflicts such as the one in Western Sahara to undermine its principles and result in an international order based on the economic and business interests of certain powers rather than on international law, and had petitioned the Secretary-General to hold a referendum on self-determination in Western Sahara shortly. They had also called for the promotion of human rights and the protection of the region's natural resources and urged the United Nations to guarantee adequate food supplies for the Saharan refugees in Algeria.

15. *Mr. Alonso Rodriguez withdrew.*

16. *At the invitation of the Chairman, Mr. Soroeta Liceras (Professor of International Public Law, Universidad del País Vasco, Spain) took a place at the petitioners' table.*

17. **Mr. Soroeta Liceras** (Professor of International Public Law, Universidad del País Vasco, Spain) said that the Western Sahara peace plan was undergoing a critical moment, because two new proposals, the so-called third and four options, called into question both the possibility of implementing the plan and the ability of the United Nations to resolve the conflict. The Secretary-General was trying to maintain an impossible balance between the two parties to the conflict and ensure a solution that benefited both, even though one of them was illegally occupying the other's territory and systematically violating the human rights of its population.

18. After reviewing the events of recent years, he said that time had shown that the Houston Agreements were part of Morocco's general strategy to exploit every opportunity that the Peace Plan offered to delay the solution of the conflict. To Morocco, the Peace Plan was always an end itself, never the road to a referendun..

19. In his recent reports, the Secretary-General had expressed concern that the Peace Plan contained no mention of a mechanism to enforce the results of a referendum. However, that could only refer to Morocco, because the Frente POLISARIO had always promised to respect its results. The Security Council was responsible for the application of the Peace Plan and it was to be hoped that it would not require a genocide, as in the case of East Timor, before the Council intervened.

20. With regard to the new proposals, it appeared that the Fourth option had already been abandoned. However the Third option recommended the partition of the Territory, following the precedent of the division agreed in 1976 between Morocco and Mauritania. It was alarming that the Secretary-General should use as a conflict resolution model a null and void international treaty, which violated the *uti possidetis iuris* principle, which established the inviolability of borders established during colonial times and had always been applied in the decolonization process on the African continent and should also be applied in the case of Western Sahara.

21. The United Nations should not withdraw from Western Sahara until a referendum on self-determination was held, because it would be a failure in the area in which it had achieved some of its greatest successes, precisely through the work of the Fourth Committee. Morocco must respect the right of the Saharan people to self-determination. There was a growing movement to abandon the Peace Plan, alleging that there were technical problems that made it impossible to implement. Nevertheless, all that remained was for MINURSO to review the appeals process regarding the list of voters and, in view of the acknowledged impartiality of the United Nations, that should confirm the original list. If the Peace Plan were to be abandoned it would lead to the renewal of armed conflict, since that would be the only way in which the Saharan people could reclaim their rights.

22. *Mr. Soroeta Liceras withdrew.*

23. *At the invitation of the Chairman, Ms. Navarro Poblet (jurist, Spain) took a place at the petitioners' table.*

24. **Ms. Navarro Poblet** (Jurist, Spain) said that Western Sahara was still on the list of Non-Self-Governing Territories and, furthermore, it was under military occupation by Morocco, and consequently subject to the norms of international humanitarian law, specifically, the provisions of the fourth 1949 Geneva Convention relative to the protection of civilian persons in time of war. Although Morocco was a signatory to that Convention, it had systematically violated the human rights of the Saharan people with impunity.

25. On 24 April 2002, she had formed part of a mission of jurists who were able to observe a criminal hearing of 16 Saharan individuals accused of taking part in demonstrations in favour of the independence of Western Sahara before the Court of Appeal in El Aaiun. There had been a strong military and police presence during the hearing, which went on for more than 19 hours. A study of the proceedings of the Moroccan police and judicial system established the existence of errors and deficiencies at all stages. The guarantee of due process of law and proper administration of justice had been non-existent and, faced with the total absence of evidence, the court had based its verdict on the acceptance of suspicions that were never proven.

26. The observer mission had found numerous defects in the proceedings which, under Moroccan law applicable in the occupied Territory, should have led to their annulment during the preliminary investigation. Violations of the Moroccan Penal Code included the prosecution and conviction of Saharan minors, their arrest days or even months after the occurrence of the events of which they were accused, and failure to notify the family members, which constituted grounds for invalidating the arrest and reclassifying it as a kidnapping. The fact that neither the police investigators nor the detained Saharans had signed the police records was a violation of article 768 of the Moroccan Law of Procedure (the inclusion of the Saharans' fingerprints suggested that the records had been fabricated by Moroccan police). The abuse of process also rendered the arrest null and void.

27. Since, in Morocco, testimony before an examining magistrate prevailed over police

statements — and the Saharans had denied their involvement before the judge — there had been a violation of article 660 of the Penal Code. Moreover, all witnesses for the prosecution had been officials of the auxiliary forces of the National Security Directorate, and none of them had recognized the defendants in the oral proceedings. Despite visible signs of torture on the bodies of the Saharan defendants, the court had rejected evidence of torture in order to extract confessions and deliberately denied a Saharan defendant's right to have torture allegations investigated. References to identification of torturers had been expressly omitted from the record, thereby preventing their subsequent investigation or prosecution. The examining magistrate had refused to allow a medical examination of a mentally disabled Saharan defendant who, in his judgement, did not demonstrate any signs of disability, thereby acting as a doctor, and examination of evidence in favour of acquittal had been systematically prohibited during the preliminary investigation and subsequent proceedings.

28. Since Western Sahara was a Non-Self-Governing Territory, whose legal status was separate and different from that of the national territory administering it, it was not under the jurisdiction of the Moroccan courts, and all their actions were null and void. Nor was it possible to enter the Territory in order to investigate its alarming human rights situation. The United Nations should implement a peace process, support the Saharan people's right to self-determination, open the Territory to international observers and lay the groundwork for enabling MINURSO to ensure the safety of the Saharan population and protect their human rights.

29. *Ms. Navarro Poblet withdrew.*

30. *At the invitation of the Chairman, Mr. López Ortiz (Federación Estatal de Instituciones Solidarias con el Pueblo Saharaui de España) took a place at the petitioners' table.*

31. **Mr. López Ortiz** (Federación Estatal de Instituciones Solidarias con el Pueblo Saharaui de España) observed that the Federation represented over 500 state and local government institutions that were heavily involved in humanitarian aid to the Saharan people and that supported the United Nations settlement plan as the framework for a referendum which would put an end to the longest-lasting decolonization conflict. Reviewing the various attempts over the years to find a political solution, he noted that it had been the first time in the history of the Organization that the United Nations had taken direct responsibility for organizing a referendum on self-determination; yet 10 long years had passed since that decision without the referendum having been held, despite the best efforts of the Personal Envoy of the Secretary-General and of MINURSO, and further agreements between the parties to the conflict. Even after the accession of the new King, it was clear that Morocco had been bent from the start on not adhering to the settlement plan and impeding the holding of a referendum. Moroccan leaders had stated plainly that their King would accept only a referendum guaranteeing Moroccan control of the Territory. Surely, the United Nations could do more to force Morocco to respect the rules of international conduct, as well as human rights and democratic values. Its repressive stranglehold on the occupied areas was creating a climate of terror that could lead to a bloodbath. The problem was not technical but political. The United Nations stood at a crossroads: either it must take the necessary political and economic steps to convince the Moroccan Government that it must comply with the peace plan, or it must recognize its failure and withdraw.

32. *Mr. López Ortiz withdrew.*

33. *At the invitation of the Chairman, Mr. Briones Vives (International Association of Jurists for Western Sahara) took a place at the petitioners' table.*

34. **Mr. Briones Vives** (International Association of Jurists for Western Sahara) observed that the Security Council had not fallen into the trap of entertaining the possibility that the Moroccan population moved into the Territory could be the final arbiter of its destiny and, rejecting the so-called framework agreement, had reaffirmed the generally-held view that the only solution was direct political negotiation between the parties to the conflict. It had safeguarded the validity of the settlement plan, the principle of self-determination and the independence option and upheld the census of voters carried by MINURSO. Should negotiations now fail, the settlement plan should come directly into force immediately.

35. In January 2002, the United Nations Department of Legal Affairs had issued an opinion upholding the 1975 judgment of the International Court of Justice, that Western Sahara was a decolonization issue and that sovereignty over the Territory had at no point been

legally transferred by Spain to any nation, so that Morocco was not an administering Power but rather an occupying power in violation of international law. The situation of Western Sahara was an anomaly as. legally, Spain was neglecting its duties as the administering Power.

36. Being a Territory under military occupation, Western Sahara was subject to the provisions of the fourth Geneva Convention of 1949, and the United Nations settlement plan itself set the problem squarely within the framework of international humanitarian law, which not only required the release of political prisoners but prohibited deliberately changing the ethnic composition of an occupied Territory and appropriating its natural resources.

37. The General Assembly had condemned the exploitation of natural resources of dependent Territories by foreign economic interests or by administering Powers as a violation of the Charter of the United Nations, and had specifically condemned Morocco's attempts to do so. The people of Western Sahara decried Morocco's pillaging and profiteering. The United Nations must prevent Morocco from following a strategy of plunder, and must defend the political and economic rights of the Saharan people, as it had done in the case of other dependent Territories. It was doubly shameful that while an illegal occupying power was enriching itself at their expense, large numbers of the population living in extreme conditions as exiles and refugees did not receive even the tenth part of the humanitarian aid promised to them by international agencies.

38. In the meantime, Morocco had, without any legal right, sealed off the Territory completely from members of the international community attempting to enter it, as had recently happened when a delegation of Spanish political representatives had sought to confer with United Nations authorities in Western Sahara. It was up to MINURSO to oppose the marginalization of one of the parties to the conflict, and it should not resign itself to becoming part of the ghetto.

39. The brutal arbitrary detentions, the climate of terror and the house searches by Moroccan military and police patrols in the occupied cities of Western Sahara, and the absence of a fair and impartial judicial system, must also be denounced. The time had come for the United Nations to enforce the Declaration on decolonization in its last great test, in Western Sahara.

40. *Mr. Briones Vives withdrew.*

41. *At the invitation of the Chairman, Ms. Morales Rodríguez (Paz para el pueblo saharaui) took a place at the petitioners' table.*

42. **Ms. Morales Rodríguez** (Paz para el pueblo saharaui), speaking as a senator and parliamentary representative, said that Spanish society was very conscious of Spain's historic involvement in Western Sahara as colonial power until 1975, with responsibility for the shameful handover of power to Morocco and Mauritania by the last Franco administration and for the resulting conflict. Not only were there currently in Spain over 100 non-governmental organizations supporting the Saharan people's just demand for self-determination, but there was great activity at all levels of government in support of the United Nations resolutions calling for self-determination.

43. At the local level, city councils were concentrating on humanitarian aid and demonstrations of solidarity with the refugees in Tindouf; on town twinning — in which over 500 Spanish municipalities were involved; and on the adoption of resolutions in support of United Nations action. They had jointly endorsed a motion calling for the immediate organization of the referendum in Western Sahara under the United Nations settlement plan as the only formula for a fair and lasting solution, and denouncing the boycott strategy of the Government of Morocco and its fraudulent "third way" of autonomy, meaning annexation by Morocco.

44. At the regional level, most of the parliaments of the 17 Autonomous Communities of Spain had set up all-party groups coordinated by a permanent secretariat known as Paz para el pueblo saharaui, which was currently organizing a conference to be held in November on the question of Western Sahara. There was also a considerable amount of political activity on the question within the regional parliaments and many motions in support of the United Nations settlement plan had been adopted.

45. At the national level, the Senate and the Congress of Deputies had established other interparliamentary groups in favour of peace for the Saharan people. Over the past two years, more than 10 motions on Western Sahara had been adopted, demonstrating the concern of Parliament and the position of the Government, which was to find a solution acceptable to the people and to

both parties to the conflict. The motions had included bills, resolutions and proposals adopted in each house of Parliament in support of the United Nations settlement plan and resolutions and the holding of the referendum.

46. The United Nations must stand firm in pressing for a quick resolution to a conflict which had dragged on for more than 27 years, for the Organization would otherwise be discredited. It must ensure that international law was respected so that Western Sahara could eventually become a member of the Organization.

47. *Ms. Morales Rodríguez withdrew.*

48. *At the invitation of the Chairman, Mr. Ahmed (Frente Popular para la Liberación de Saguia el-Hamra y de Río de Oro) took a place at the petitioners' table.*

49. **Mr. Ahmed** (Frente Popular para la Liberación de Saguia el-Hamra y de Río de Oro), speaking on behalf of the Saharan people, said that the continued illegal occupation of Western Sahara by Morocco and its constant obstruction of the efforts of the United Nations and the Organization of African Unity were in clear defiance of the Charter of the United Nations. The Saharan people were still hoping that they would be decolonized through the full application of the settlement plan accepted by the Security Council and the two parties to the conflict.

50. Morocco had impeded the implementation of the settlement plan and the Houston Agreements once it had concluded in February 2000 that a referendum would lead to Saharan independence, a fact confirmed by the Secretary-General in his last report on the question to the Security Council (S/2002/178, para. 48). Unfortunately, the arguments given subsequently by the Secretary-General for suspending the implementation of the settlement plan did not underscore Morocco's responsibility so unequivocally. The Frente POLISARIO considered that the alternative options put forward, such as the so-called "draft framework agreement", were totally unacceptable, for they were approaches designed to camouflage and legitimize the colonial occupation of his country. Many — first and foremost the Saharan people — had been unable to understand how the United Nations could allow itself to be implicated directly or indirectly in such a premeditated conspiracy against its own resolutions and principles. Its failure to take a firm stand to persuade Morocco to fulfil its prior undertakings had opened the door to any number of contradictory proposals for a solution.

51. In the course of its occupation, the Moroccan Government had caused dozens of Saharan prisoners of war and political prisoners to disappear without a trace. MINURSO, on the surprising pretext that protecting human rights was not spelled out in its mandate, had looked the other way as 140 political prisoners currently held in notoriously bad conditions in a prison in Aaiun had gone on a hunger strike in protest. At the same time, the referendum for self-determination, which had been spelled out, remained in a political limbo.

52. The natural resources of his country were increasingly being pillaged by Morocco and offered to the highest bidder in classical colonial fashion, and that was being done with impunity in the presence of a United Nations Mission that was virtually the prisoner of the will of the occupying forces. Such a state of affairs required a convincing response. Postponing the moment of truth would only harden the obstruction and intransigence and erode the faith of an innocent people in the United Nations.

53. Two developments in the past year should assist the Committee to hasten decolonization: the opinion of the Under-Secretary-General for Legal Affairs (in document S/2002/161) issued in February at the request of the Security Council and the reaffirmation by the Council in July (in resolution 1429 (2002)) that the settlement plan was the only valid solution and that the guiding principle must be self-determination.

54. With all other nations, the Saharan people rejoiced in Timor-Leste's accession to independence, at the end of a long and legitimate struggle for freedom. Now the United Nations must decisively put an end to the other tragic injustice that was still being committed in Western Sahara. The Saharan people would not abandon its goal of full sovereignty over the entire national territory and would continue to fight against Moroccan occupation, although at the same time it was open to peace within the framework of international law as embodied in the settlement plan. A just and lasting peace would redound to the benefit of the entire region; and the Saharan people, once it recovered its sovereignty, was prepared to play its part in the common effort towards the peaceful economic and

democratic development of all the peoples of the region.

55. *Mr. Ahmed withdrew.*

56. *At the invitation of the Chairman, Ms. Teuwen (Oxfam Solidarity and Task Force for European Coordination of Support for the Saharan People) took a place at the petitioners' table.*

57. **Ms. Teuwen** (Oxfam Solidarity and Task Force for European Coordination of Support for the Saharan People), referring to the humanitarian situation of the Saharan refugees living in camps near Tindouf, Algeria, and in the territories controlled by the Frente POLISARIO, said that since 1986 the World Food Programme (WFP) had been responsible for delivering food aid to the most vulnerable 80,000 of those refugees, the number later expanded in 2000 to about 150,000. Yet by August 2002, less than 70 per cent of the allocated amount had been spent and little more than 60 per cent of the authorized food aid had been delivered. Moreover, WFP, for reasons of cost, was not providing all the stipulated nutritional components of the minimum calorie allotment for a refugee, and in the current month was expected to distribute only 11 per cent of that minimum calorie allotment. As a result, as reported in a joint press communiqué of UNHCR and WFP, 35 per cent of children under 5 were chronically malnourished, some of them severely.

58. UNHCR was responsible for non-food assistance to the Saharan refugees. There too, the figures were alarming: from a $5.5 million budget in 1998, the budget had declined to about $2.5 million in 2001; and UNHCR had not managed to spend even the curtailed budgets in full. It had failed to replace tents, deliver sufficient gas for cooking and lighting, or even provide adequate water to 92 per cent of the camp villages, which were receiving only 65 per cent of the acceptable minimum needed in the harsh Saharan climate. Also, owing to faulty transport vehicles, UNHCR distribution of food aid took twice as long as it should.

59. Under the circumstances, some donors had withdrawn their support, which they maintained had been going on for too long. Yet the proper response should be a different one. The international community had failed to step in to ensure strict respect for international law and for the agreements that were supposed to ensure self-determination by the Saharan people, despite repeated United Nations and European Parliament resolutions confirming the bases of a settlement. Nonetheless, while awaiting such a political solution, it was clear that the Saharan refugees had the right to adequate protection and assistance. The international community could not both fail to act and yet complain that the conflict and the need to protect refugees had lasted too long.

60. She appealed to the Committee and the General Assembly to act quickly to find a just and lasting solution, and in the meantime to help the refugees to live with dignity, especially by providing the necessary resources to WFP and UNHCR.

61. *Ms. Teuwen withdrew.*

62. *Ms. Price (Canada), Vice-Chairman, took the Chair.*

63. *At the invitation of the Chairman, Ms. Scholte (Defence Forum Foundation) took a place at the petitioners' table.*

64. **Ms. Scholte** (Defence Forum Foundation) said that the United Nations had failed miserably to fulfil its promise to hold a referendum on self-determination for the Saharan people. In February 2000, when Morocco, had submitted 130,000 challenges to the MINURSO Identification Commission, the United Nations had simply stopped the process, wasting six years' work and $500 million channelled into identifying eligible voters. United Nations officials had acknowledged that, had those voter challenges been examined, the referendum would have already occurred. As a further travesty, the Secretary-General's Personal Envoy, Mr. James A. Baker III, had begun trumpeting alternatives to the referendum, the latest of which, an autonomy plan contrary to everything the United Nations claimed to stand for, had fortunately been defeated by the Security Council in July.

65. It was critically important for the United Nations to resume working to bring about the promised referendum as soon as possible. Otherwise, its legitimacy and integrity would be called into question and efforts to promote economic development in the Maghreb would be undermined. The Moroccan people would continue to suffer as social spending resources were diverted to the military, and Saharans in refugee camps would continue to suffer from chronic food shortages and the heartbreak of being separated from their families for over a quarter of a century. She therefore hoped that the United Nations would make

every effort to decolonize Africa's last colony by organizing a free, fair and transparent referendum in Western Sahara.

66. *Ms. Scholte withdrew.*

67. *At the invitation of the Chairman, Ms. May (Renaissance Foundation) took a place at the petitioners' table.*

68. **Ms. May** (Renaissance Foundation) asked why it should require $500 million and 10 years to register 86,000 people to vote. Year after year, the referendum in Western Sahara had been delayed in order for the Moroccan Government to manipulate the outcome of who should be allowed to vote as an officially recognized citizen. Since Western Sahara had originally been a colony of Spain, and was often referred to on maps as "Spanish Sahara", it was not clear why Morocco had suddenly claimed it as part of its territory when the decolonization process had begun in 1974. The United Nations had been manipulated for years by a country that had no intention of abiding by the results of a referendum or acknowledging that certified voters could determine their own destiny. Aware that Saharans who had been separated from their families, denied the right to travel freely, forced to live in refugee camps with the bare necessities and suffered inhumane treatment would not submit to its rule, Morocco was interested only in stalling the referendum process. Surely, it would use the five years allowed under the draft framework agreement (its preferred option) to move its own people into the area, establish their residency and then, while the territory was still under its sovereignty, hold a referendum when it was assured of the outcome. The draft framework agreement was contrary to United Nations resolutions on Western Sahara and to the decision of the International Court of Justice handed down on 16 October 1975, which found no tie of territorial sovereignty between the Territory of Western Sahara and Morocco. Even the Secretary-General's Personal Envoy had recognized that an independent Saharan State would contribute to stability in the Maghreb. Since it was quite obvious that the citizens of Western Sahara wanted sovereignty but would never be given a chance to vote for it, the original ruling by the International Court of Justice should be implemented directly without any intermediate steps.

69. *Ms. May withdrew.*

70. *At the invitation of the Chairman, Pastor Dan Stanley (US-Western Sahara Foundation Church Liaison Office) took a place at the petitioners' table.*

71. **Pastor Dan Stanley** (US-Western Sahara Foundation Church Liaison Office) said that the adoption of General Assembly resolution 1514 (XV) had filled Saharan families with hope that the decolonization of Western Sahara and self-determination were imminent. Now, over 40 years and a full generation later, their dreams had not been realized. In the interim, family members had perished, been injured in the war or arrested, as Saharans continued to live in tents in the desert, having been lied to by the rest of the world.

72. *Pastor Dan Stanley withdrew.*

73. *Mr. Maitland (South Africa) Chairman, resumed the Chair.*

74. *At the invitation of the Chairman, Mr. Ruddy (retired Ambassador of the United States of America) took a place at the petitioners' table.*

75. **Mr. Ruddy** (Retired Ambassador of the United States of America) recalled that, in 1995, Secretary-General Boutros-Ghali had personally intervened to prevent him from having his petition heard by the Committee. When he had registered voters for the referendum in 1994, he had expected Morocco to act honourably and had been less sure of the Frente POLISARIO. In fact, the opposite had occurred. The Moroccans had manipulated voter registration, excluding thousands of Saharans, and terrorized the local population of Western Sahara. Observing the solidarity of Saharans in various refugee camps in Algeria and Moroccan-occupied Western Sahara, and realizing that any referendum would not be in its favour, Morocco had launched a campaign of endless delays. On 28 August 1994, when voter identification had begun, MINURSO had ceased to be a United Nations operation, to become instead the instrument of Moroccan domination, to the point where he had submitted his reports not only to the Special Representative of the Secretary-General, but also to a representative from Rabat. Morocco had tapped telephone lines to United Nations Headquarters, tampered with MINURSO mail, and searched the rooms of MINURSO personnel without any protest by United Nations authorities. In January 1995, he had given a full account of those activities to the United States House of Representatives.

76. That had been followed by the disappointment of the Houston Accords, negotiated by the Secretary-General's Personal Envoy, Mr. James A. Baker III, recommending a five-year period of autonomy followed by a referendum. It was quixotic to think that, if the United Nations had not been capable of holding a referendum after 11 years, it would suddenly be able to do so in five years. Although the United Nations had discussed self-determination and condemned colonialism ad nauseam, and the International Court of Justice had even found Moroccan occupation of Western Sahara unlawful, the Organization's ineffectiveness in organizing a referendum called its moral and legal authority into question.

77. *Mr. Ruddy withdrew.*

78. *At the invitation of the Chairman, Ms. Finkler (Office of United States Congressman Joseph R. Pitts) took a place at the petitioners' table.*

79. **Ms. Finkler** (Office of United States Congressman Joseph R. Pitts), speaking on behalf of Congressman Pitts, deplored Morocco's invasion and occupation of Western Sahara, in defiance of the 1975 ruling of the International Court of Justice, and its recent attempts to abandon negotiated, signed agreements under the pretext that there was no mechanism to enforce the results of the referendum. Throughout the year 2000, the United Nations, at the behest of certain parties, had advocated a nebulous alternative to the referendum, either out of a lack of ability or willingness to implement it. She therefore welcomed the most recent Security Council resolution 1429 (2002), adopted in July, which reaffirmed that any solution to the conflict over Western Sahara must be based on the right to self-determination. Meanwhile, the Saharan people remained in refugee camps in the harsh Sahara desert, children suffered from malnutrition and lack of medical care, and Saharans living in the Moroccan-occupied part of the Territory were denied economic rights and ever fearful that their rights to freedom of speech, association and assembly would be violated. Prisoners of conscience in the disputed territory were among the "disappeared".

80. Recently, there had been disturbing reports that the Moroccan Government had signed contracts with foreign companies for the exploration of resources in Western Sahara. In that connection, she stressed the legal opinion given in January 2002 by the Legal Counsel of the United Nations, stating that Morocco had no sovereignty or right of legal administration over Western Sahara, and that any exploitation of the resources of Western Sahara without the consent of its people was in violation of the principle of international law (S/2002/161, para. 25).

81. Although the situation of Western Sahara closely paralleled that of Timor-Leste, the world was not coming to the rescue of the Saharan people. In January 2000, the United Nations had published a list of voters which had included 86,381 eligible individuals. The only remaining task was an appeals process concerning those persons not approved, which could be completed in a relatively short time if the United Nations adhered strictly to the terms of the protocol for the appeals procedures which it had brokered in May 1999. Stability and security in North Africa were in the strategic interest of the international community which she urged to support self-determination for the Saharan people. She made the same appeal to her own Government.

82. *Ms. Finkler withdrew.*

83. *At the invitation of the Chairman, Ms. Camargo (American Association of Jurists) took a place at the petitioners' table.*

84. **Ms. Camargo** (American Association of Jurists) said that, as an organization committed to the right of self-determination of peoples and the struggle against imperialism and colonialism, the American Association of Jurists defended the inalienable right of the Saharan people to self-determination and independence, in accordance with General Assembly resolution 1514 (XV), the Charter of the United Nations, and the settlement plan providing for a referendum on self-determination. It urged the United Nations to hold a referendum without further delay and to cease proposing alternatives which amounted to imposing solutions without the consent of the parties. Indeed, alternatives, such as the proposed framework for autonomy under Moroccan sovereignty and the withdrawal of United Nations personnel, would violate the Saharans' right to self-determination and undermine the credibility of the United Nations as an institution. A number of Nobel Prize winners, including José Ramos-Horta from Timor-Leste, Rigoberta Menchú Tum from Guatemala, Oscar Arias Sánchez from Costa Rica, Adolfo Pérez Esquivel from Argentina and Mairead Maguire from Northern Ireland, had made that point to the Secretary-General. The

referendum was the only path to peace, and to preventing renewed armed conflict, which would affect the entire region. The endless postponement of the referendum, including Morocco's addition of thousands of names to the voter lists and its submission of 130,000 appeals, were but a pretext to obstruct the process of self-determination. The tenor of Security Council resolution 1429 (2002), renewing the mandate of MINURSO to 31 January 2003, was therefore encouraging.

85. The United Nations was also responsible for protecting the territorial integrity and natural resources of Western Sahara, which was deeply coveted by transnational economic interests and major Powers for its mineral and oil wealth. The agreements between Morocco, the United States firm Kerr McGee du Maroc Ltd. and the French firm TotalFinaElf E&P Maroc to explore and exploit Western Sahara's oil resources were of questionable legality. Indeed, Mr. Corell, Under-Secretary-General for Legal Affairs, the Legal Counsel, in his letter to the Security Council of 29 January 2002, indicated that such activities in a Non-Self-Governing Territory violated Security Council resolutions and the Charter of the United Nations. He also clarified that the Declaration of Principles on Western Sahara ("the Madrid Agreement") of November 1975 did not transfer sovereignty over the Territory of Western Sahara or confer upon any of the signatories the status of an administering Power, a status which Spain alone could not have unilaterally transferred (S/2002/161, para. 6). The occupation of Western Sahara by Morocco was therefore a violation of international law.

86. In conclusion, she urged the Committee to take note of the harsh living conditions of more than 160,000 persons in the Tindouf refugee camps and Spain, as a former colonial Power, to assume its responsibility to assist the United Nations in the decolonization of Western Sahara.

87. *Ms. Camargo withdrew.*

Organization of work

88. **The Chairman** drew Committee members' attention to the fact that two draft resolutions and one draft decision had been circulated that day as Chairman's texts, namely, the draft resolution on the question of Western Sahara (A/C.4/57/L.2), the draft resolution on offers by Member States of study and training facilities for inhabitants of Non-Self-Governing Territories (A/C.4/57/L.3) and the draft decision on the question of Gibraltar (A/C.4/57/L.4).

89. In the draft resolution on the question of Western Sahara, the words "to the people" should be inserted after "suffering" in the thirteenth preambular paragraph beginning "Stressing that the lack of progress ...".

The meeting rose at 5.50 p.m.